

DAVID BURCHARD  
CHAPTER 13 TRUSTEE  
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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SANTA ROSA DIVISION**

In re:

LEWIS EVAN SHAPIRO  
14716 EAGLE NEST LN  
GUERNEVILLE, CA 95446

###-##-2153

Debtor(s).

Case No.: 09-1-1839 AJ13

Chapter 13

*SECOND AMENDED* NOTICE BY DAVID  
BURCHARD, CHAPTER 13 TRUSTEE, OF  
CHAPTER 13 PLAN DEFICIENCIES

**CONFIRMATION HEARING:**

Date: 11/16/2009

Time: 1:30 PM

Place: United States Bankruptcy Court  
99 South E Street  
Santa Rosa, CA 95404

DAVID BURCHARD, Chapter 13 Trustee in the above-entitled action, cannot recommend Confirmation of the Chapter 13 Plan proposed hereunder by Debtor(s) for the following reason(s).

1. Section 11 of the plan indicates the lien held on real property by Citimortgage Inc. shall be voided, and a Notice for Opportunity for Hearing on Debtor's Motion has been filed.. The Trustee requests that debtor's Notice and Motion to Avoid Lien is resolved prior to confirmation.
2. Section 11 of the plan indicates the lien held on real property by North Coast Collection Service shall be voided, and a Notice for Opportunity for Hearing on Debtor's Motion has been filed. The Trustee requests that debtor's Notice and Motion to Avoid Lien is resolved prior to confirmation.
3. The plan does not meet the requirements of 11 U.S.C. §1325(d), as the plan payment is insufficient to pay all secured, priority and administrative claims, and therefore, the plan is not feasible. The source of the non-feasibility appears to result from the following factor: The Second Amended Chapter 13 Plan indicates the debtor is in the process of a loan modification with EMC Mortgage, however, said creditor has filed a secured proof of claim that includes *pre-petition* arrearages in the amount of \$14,794.59. The Trustee requests that debtor's counsel amend the plan to pay this claim, or, in the alternative, file an objection to said claim.

PLEASE TAKE NOTICE that, without prior notice, at the above-referenced confirmation hearing date assigned to your Chapter 13 case, the Court may DISMISS the above-referenced case upon making a determination that Debtor(s) has/have not presented a feasible Plan, Debtor(s) has/have not made the required payments under the Plan, Debtor(s) has/have violated the statutory debt limitations set for a Chapter 13 case, Debtor(s) has/have not filed this proceeding in good faith, Debtor(s) has/have not provided documents and/or Schedules and Plan as required under the Bankruptcy code, and/or Debtor(s) has/have not provided the Trustee with Payment Advices or Declarations.

Dated: October 28, 2009

DAVID BURCHARD

DAVID BURCHARD, Chapter 13 Trustee

### Certificate of Mailing

I, WENDY KARNES, the undersigned, certify that:

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 393 Vintage Park Drive, Suite #150, Foster City, CA. On the date set forth below, I served a copy of the NOTICE BY DAVID BURCHARD, CHAPTER 13 TRUSTEE, OF CHAPTER 13 PLAN DEFICIENCIES, and this Certificate of Mailing, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

LEWIS EVAN SHAPIRO  
14716 EAGLE NEST LN  
GUERNEVILLE, CA 95446

EVAN LIVINGSTONE  
LAW OFFICES OF EVAN LIVINGSTONE  
182 FARMER'S LANE 100A  
SANTA ROSA, CA 95405

United States Trustee  
235 Pine Street, Suite 700  
San Francisco, CA 94104

Dated: October 28, 2009

WENDY KARNES

WENDY KARNES

Case Analyst for David Burchard, Trustee